Supreme Court, U. S.
FILED
FEB 18 1977
MICHAEL RODAK, JR., CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1976

No. 76-944

RICHARD NIXON,

Petitioner,

v.

WARNER COMMUNICATIONS, INC., and
NATIONAL BROADCASTING CO., INC., *et al.*,

Respondents.

PETITIONER'S REPLY MEMORANDUM

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In their opposition to our petition for writ of certiorari, respondents urge the Court to deny the petition on the ground that this case is "unique." Respondent Warner Communications, Inc. asserts that this case "arose out of a particular factual setting not likely to be repeated." Brief of Respondent Warner Communications, Inc. in Opposition, at 13. Respondents National Broadcasting Inc., et al. described the case as "one arising out of a singularly unique fact situation, one unlikely to recur in the history of the republic." Brief of Respondent National Broadcasting, Inc., et al. in Opposition, at 9.

This is to inform the Court that on January 28, 1977, the United States Court of Appeals for the District of

Columbia Circuit affirmed in part a lower court order directing that certain tape recorded conversations of the Nixon administration be provided in response to a subpoena *duces tecum*. See *Dellums v. Powell*, No. 76-1336 (D.C. Cir., Jan. 28, 1977). In *Dellums*, a civil class action, plaintiffs seek damages for alleged violation of their constitutional rights during the "May Day" demonstrations on May 5, 1971. The appellate court, affirming the decision of the district court, held that the *Dellums* plaintiffs are entitled, notwithstanding the presidential privilege of confidentiality, to discovery of the relevant portions of all White House tape recorded conversations over a period of twenty-five (25) days in 1971.

Petitioner submits that the *Dellums* case is a perfect example of the inevitable recurrence of the issue presented in the instant case, and that respondents' assertions of uniqueness are ill-founded.

Respectfully submitted,

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